HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No.14377 OF 2007

DATE: 03.09.2007

Between:

Paper Clipping of Eenadu Telugu Daily
Newspaper dated 23rd June, 2007
Under the caption "Akkarakurani Thanya Thyagam".

..... PETITIONER

AND

The Osmania General Hospital,
Afzulgunj, Hyderabad & 7 others.

.....RESPONDENTS

HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No. 14377 OF 2007

ORDER: (Per Hon'ble Sri Justice A. Gopal Reddy)

This is a taken up Writ Petition on the basis of a paper clip

published in Eenadu Telugu Daily Newspaper on 23.6.2007 under the caption "*Akkarakurani Thanaya Thyagam*". The sum and substance of the paper clipping goes to show that one Ms. Radhika, aged 21 years, D/o. Sri Venkateswarlu, has come forward to donate her kidney to her father as he was suffering with kidney problem and doctors advised for transplantation of kidney. The Doctors at Osmania General Hospital after medical analysis, on both the patient and donor Ms. Radhika, performed the transplantation on 11.6.2007. It was reported that the patient was healthy for two days and from the third day onwards, he again fell ill. The donor Ms. Radhika is under bed rest in Sri Ramnath Ashram since the stitches are not removed. She reported that though she donated her kidney to her father, it is of no use and initially, the doctors after completing all medical tests said that the kidney is functioning, but two days later, they informed that the same is not functioning. She suspected that the doctors have not transplanted her kidney to her father but they have sold it to some other person. She also stated that her father is the only bread-winner of the family and that due to this problem, the entire family is facing much hardship.

On the basis of the said news item, the writ petition has been taken up and notices have been issued to the respondents.

In response to the notice, Dr. Girish Narayan, Superintendent and Professor of Nephrology, Osmania General Hospital, Hyderabad-the 7th respondent herein, filed a counter affidavit stating that on removing one kidney from the donor, Ms.Radhika, it was perfused by the Perfusion Team consisting of Dr. Vani, P.G. in Nephrology with the assistance of Dr. Dhanalaxmi, Assistant Professor of Nephrology and Dr. T. Jagadishwar, Assistant Professor of Urology and within few

minutes it was handed over to the Operating Team G.U.-I in the adjacent table in the same room OT 3. The surgical team headed by Dr. S.Jayaram Reddy performed the surgery and immediately after release of the vascular clamps, the transplanted kidney started functioning and produced urine on the table itself. This was on 11.6.2007 at about 3.00 p.m. After closing the abdominal wound and proper dressing and after the patient was recovered from anesthesia, he was shifted to Nephrology Department (O.T-7) where he was kept in an isolation room for monitoring of his post-operative care as is done normally in all such operations. On the first post-operation day i.e. 12.6.2007, the patient continued to show a steady progress and his kidney functions were monitored and found to be improving. The function of the kidney was confirmed by doing the appropriate blood tests.

On 13.6.2007, till about 3.00 p.m., the patient continued to have a good urine output and nearly 1500 ml of urine was produced. By about 3.00 p.m., it was noticed by the staff on duty that the urine out put had suddenly dropped. The case was reviewed by the Transplant Team and on the advice of the Surgical Team, a Renal Angiogram was performed in the Cath Lab of Osmania Hospital on 14.6.2007, which revealed that the internal Iliac Artery (blood vessel which carry the blood to the transplanted kidney) was occluded due to blood thrombosis. On 15.6.2007 as the kidney had stopped functioning and was infracted, the surgical team after explaining the complications to the patient, his wife and other relatives, took up the case for re-exploration i.e. second surgery. On the table, the surgeons found the kidney to be totally infracted and to prevent further complications to the patient, they removed the transplanted kidney. The patient, after the

second surgery recovered well and was again put back on the regular dialysis programme and he continued to be on regular dialysis as he was before his transplantation surgery. The removed kidney was initially sent to Apollo Hospital for Histopathology examination and special stains. The sample was accepted in the Histopathology department of Apollo Hospital, Jubillee Hills vide No.07/06570. The biopsy report confirmed that the kidney was infracted due to occlusion of blood vessel. The kidney was brought back from the Apollo Hospital to the department of pathology of Osmania General Hospital on 23.6.2007 vide pathology department inward entry No.1835/07.
On the night of 16.6.2007 it was noted by the Nephrology team that the case sheet of Mr.Venkateshwarlu was missing and a complaint was lodged with the P.S. Afzalgunj.

It is stated that in view of the allegations of patient's wife and donor about the alleged sale of the kidney, on the instructions of the Hon'ble Minister and the Health Secretary, the Director of Medical Education and Dr. Pradeep Deshpande, Professor and Head of the Department of Nephrology and vice Principal, Gandhi Medical College were sent to Osmania General Hospital to ascertain the real facts.
The members visited Osmania Hospital on 26.6.2007 and went through the records in the Operation theatre, Nephrology department and interviewed all the transplantation team members and also the patient, his wife and the donor. They submitted a detailed report to the Government on 27.6.2007, wherein it was observed that the allegations of the donor's kidney not transplanted to the patient could not be substantiated by the available evidence on record and if the relatives so persisted, the kidney can be subjected to DNA profile as it was still available in the pathology department of Osmania General

Hospital. It was further observed that the complication of thrombosis of blood vessels resulting in graft loss could occur rarely and available evidence points out that such an event has occurred in the instant case and the patient can still be on Heamodialysis and he could be provided option of cadaver transplantation. In view of the adverse remarks in the press and the media, a fact finding expert committee was formed with reputed doctors and the expert Committee visited the hospital on 3.7.2007 and after going through the records interviewed the staff and the tam members, the donor, the patient and his wife, and recorded their statements. They submitted their report dated 4.7.2007 to the Hon'ble Chief Minister of A.P., wherein they opined that there was no evidence of any foul play in Osmania General Hospital and the allegations of the family could not be substantiated. However, to get a scientific proof, they also requested the Government to get DNA test of the donor and the kidney preserved in Department of Pathology, Osmania General Hospital.

When the writ petition was taken up for hearing on 20.8.2007 when the donor Ms. Radhika was questioned whether she would be willing to undergo D.N.A. test in order to unearth the truth as published by newspaper and media, she expressed her unwillingness to cooperate with the court. However, since the investigation done by the Principal Secretary, Medical and health Department-5th respondent herein, was not known, on 28.8.2007 he was directed to be present in the Court today by filing counter affidavit. Pursuant to the said direction, today the 5th respondent is present in the Court and filed his counter affidavit stating that after perusing the report of fact finding team, the Government decided to cause further enquiry into the allegations and appointed Dr. Ravi Raju, Senior Nephrologist,

Superintendent, King George Hospital, Visakhapatnam, who after due enquiry into the matter, submitted a report stating that there is a convincing evidence that Ms. M. Radhika's kidney is transplanted into her father M.Venkateswarlu though it failed to function due to arterial occlusion. DNA finger printing for Ms. Radhika and removed graft kidney might confirm that this kidney belonged to her provided the specimen preserved is suitable for DNA finger printing and there is no truth in the allegations made by the patient, donor and relatives against the doctors. When the donor Ms. Radhika was requested to give sample for carrying out the test, the patient and the donor refused to give the samples for the test. Subsequently, the patient demised on 29.7.2007. The patient relatives were explained the need for conducting the post-mortem examination to establish the cause of death, but they refused permission for the same and so, the body was handed over to the relatives. It is also stated in the counter, that an amount of Rs.1,00,000/- has been sanctioned from C.M. Relief Fund to M.Venkateswarlu by the Revenue Department vide Letter No.59287-59556/2007, dt. 29.6.2007 towards financial assistance as his renal transplantation has been failed at Osmania General Hospital. Further, the donor Ms. M.Radhika was also appointed as Staff Nurse on contract basis in NIMS, Hyderabad. The Government has monitored the case from time to time instructing the Superintendent, Osmania General Hospital, Hyderabad to file counter in the matter and in fact, he filed a counter about the steps being taken by the Government in the matter. Relief measures to the family was also considered by the Government giving Financial Assistance and employment to the donor.

In view of the facts and circumstances mentioned above and

inasmuch as the donor Ms. M. Radhika has not cooperated to have a DNA test to unearth the truth in the allegations made by her, no useful purpose would be served in keeping the matter pending.

The Writ Petition is accordingly dismissed. No costs.

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A. GOPAL REDDY, J.

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03rd SEPTEMBER, 2007 P. SWAROOP REDDY, J.

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